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13  
14 IN THE UNITED STATES DISTRICT COURT  
15  
16 DISTRICT OF OREGON  
17  
18 PORTLAND DIVISION

19 LACY GIRARD,	)	Case No.
	)	
20 Plaintiff,	)	COMPLAINT
	)	
21 v.	)	42 U.S.C. §§ 1983, 1985; Violation of
	)	Civil Rights, 8 <sup>th</sup> and 14 <sup>th</sup> Amendments
22 JASON BATTIN, COLETTE,	)	
23 PETERS, BRIAN BELLEQUE,	)	
24 HEIDI STEWARD, PAULA	)	
MYERS, MICHAEL GOWER,	)	
ROBB PERSSON, ERIKA SAGE,	)	
DAWNELL MEYER, RICHARD	)	
STEPHEN ALBERTS JR., ALANA	)	
BRUNS, ROMERO YANEZ,	)	
ANTHONY ROSS, JENNIFER	)	
ELGIN, KARL MOODY,	)	
JOHN DOE, JANE DOE, and the	)	
STATE OF OREGON,	)	
Defendants		

COMPLAINT AND DEMAND FOR JURY TRIAL

1 Plaintiff by and through her attorneys, brings her complaint herein and states and alleges  
2 as follows:

### 3 INTRODUCTORY STATEMENT

4 1.

5 This suit is filed by Plaintiff Lacy Girard under 42 U.S.C. § 1983 for actions by the named  
6 defendants for violations of her rights secured by the United States Constitution, including the  
7 First, Eight and Fourteenth Amendments, by the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and  
8 1985.

9 Plaintiff, a vulnerable person, was an inmate in Coffee Creek Correctional Facility  
10 (CCCF), an Oregon Department of Corrections (ODOC) in 2016, 2017, 2018, 2019, 2020 and  
11 2021. Plaintiff was sexually abused while an inmate by Defendant Jason Battin, a correctional  
12 officer. The other defendants failed to provide adequate supervision and training of staff and  
13 safeguards to prevent plaintiff and other inmates from being sexually abused by Defendant Battin  
14 Defendants failed to recognize and respond to obvious signs Defendant Battin was grooming  
15 female prisoners, had a sexual predator pattern which was known to many staff members and  
16 management at CCCF. Defendants failed to provide legally mandated counseling as required by  
17 the provisions of the Prison Rape Elimination Act (PREA) for the benefit and protection of the  
18 Plaintiff and subjected Plaintiff to recurring psychological damage by failing to treat her ongoing  
19 psychological injuries arising from the sexual abuse. A conspiracy of silence existed among the  
20 defendants to protect one another and themselves. Plaintiff seeks compensatory and punitive  
21 damages, including reasonable costs, disbursements and attorney fees pursuant to 42 U.S.C. §  
22 1988.

### 23 JURISDICTION AND VENUE

2.

Jurisdiction exists under 28 U.S.C. § 1331 because this action arises under the laws of the United States. This Court has jurisdiction over plaintiff's claims under 28 U.S.C. § 1343 because plaintiff has brought this action to seek redress for the deprivation of rights secured by the United States Constitution.

3.

Venue is proper under 28 U.S.C. § 1391(b)(2), because the acts and omissions alleged herein occurred in Washington County, Oregon. Further, one or more of the defendants reside in the District of Oregon and Plaintiff's claims for relief arose in this district.

4.

#### PARTIES

Plaintiff is a resident of Oregon and was incarcerated at the Coffee Creek Correctional Facility at most times herein. She presently resides in Oregon.

5.

Defendant Colette Peters was at all relevant times the Director for ODOC. Defendant Peters has oversight of ODOC employees and AICs and is responsible for the enforcement and compliance with federal law, including the United States Constitution and the mandates of the Prison Litigation Reform Act (PLRA), the Prison Rape Elimination Act of 2003 (PREA), and the laws of the State of Oregon. Defendant Peters approves and signs PREA audits for every ODOC institution in Oregon. She has implemented a zero-tolerance policy for sexually assaulting AICs within ODOC by employees of ODOC. Defendant Peters has led Governor Kate Brown certify to

1 the United States government that Oregon is in compliance in all regards and meeting all of the  
2 requirements of PREA for compliance in order to continue to secure federal funding to the State  
3 of Oregon.

4  
5 6.

6 Defendant Brian Belleque, until approximately May 1, 2019, was the Deputy Director for  
7 ODOC and responsible for carrying out and implementing all policies of the Director and the  
8 Policy Group. He was responsible for the overall safe and secure operation of all ODOC  
9 correctional institutions.

10  
11 7.

12 Defendant Heidi Steward is the current Deputy Director of ODOC. She has held this  
13 position since approximately April 1, 2019. Heidi Steward is responsible for carrying out and  
14 implementing all policies of the Director and the Policy Group. She is responsible for the overall  
15 safe and secure operations of all ODOC correctional institutions. Defendant Heidi Steward was  
16 also the Assistant Director of Correctional Services.

17  
18 8.

19 Defendant Michael Gower is the Assistant Director of Operations. He is the direct  
20 supervisor of every ODOC Superintendent within ODOC. Defendant Gower has the authority to  
21 direct and implement changes within ODOC prisons. He oversees the budgeting for each  
22 institution and approves budget requests for security improvements within ODOC. Defendant  
23 Gower is responsible for ensuring that Oregon prisons are safe, civil and productive and is  
24 responsible for institutional management. Michael Gower, as Assistant Director of Operations, is  
responsible for PREA compliance and the safe and secure operation of ODOC Institutions.

9.

1 Defendant Rob Perrson is ODOC's Assistant Director of Operations supervises ODOC  
2 superintendents. He is and has been responsible for ensuring the Oregon prisons are safely  
3 managed and for PREA compliance and safe operation of ODOC institutions.  
4

5 10.

6 Defendant Ericka Sage is the ODOC PREA Coordinator. As the PREA Coordinator she  
7 passes along PREA audit recommendations to defendants Peters, Belleque, Steward, Gower  
8 and the CCCF Superintendent and Assistant Superintendent of Security for CCCF for  
9 implementation.

10 11.

11 Defendant Paula Myers was Superintendent at CCCF during all relevant times through  
12 2020. At all times relevant, Paula Myers was acting under the color of law and is sued in her  
13 official capacity.

14 12.

15 Defendant Jason Battin was a correctional officer at CCCF at all relevant times who  
16 sexually abused plaintiff on several occasions.

17 13.

18 Defendants Richard Stephen Alberts, Jr., Romero Yanez, Alana Bruns Karl Moody,  
19 Jennifer Elgin, John Doe, Jane Doe, Anthony Ross were correctional officers, security staff or  
20 counselors at CCCF at all times who knew or should have known about Battin's behavior and  
21 unauthorized conduct.

22 14.

23 The State of Oregon employed the individual defendants and is liable for their conduct  
24 under the doctrine of respondeat superior.

**Exhaustion of Administrative Remedies**

15.

Plaintiff has exhausted all available administrative remedies with respect to all claims and all Defendants involved in the events alleged in this complaint

**FACTUAL ALLEGATIONS**

(Coffee Creek Correctional Facility)

16.

Coffee Creek Correctional Facility (CCCF), located in Wilsonville, Oregon and is Oregon's only prison housing female AICs. It also serves as the intake center for all prisoners entering ODOC. The facility opened in 2001 and contains 1,684 beds.

17.

Since opening, CCCF has been the location of numerous sexual assaults, rapes and misconduct by staff against female AICs.

- 2004 – Lt. Jeffrey Allen Barcenas pled guilty to four counts of official misconduct for engaging in sex with a female AIC.
- 2008 – CO Richard Mitchell had female AICs to expose themselves to and engage in sexual favors with Mr. Mitchell.
- 2008 – CO Robert Dunlap was accused of abuse against a female AIC.
- 2009 – Mr. Paul Golden, CCCF employee was convicted of 15 counts of custodial sexual misconduct and the State was sued by the female AICs.
- 2009 – Mr. Richard Kaleo Rick, a civilian plumber working at CCCF, convicted and the state, prosecuted for sexually abusing AICs.

- 1 • 2009 – Mr. Troy Bryant Austin, a civilian maintenance worker at CCCF,  
2 was convicted and the state was sued for sexually abusing AICs.
- 3 • 2009 – CO Darcy Aaron MacKnight was convicted of custodial sexual  
4 misconduct for having sex with a female AIC.
- 5 • 2010 – Christopher Don Randall, Food Services Coordinator, pled guilty to  
6 two counts of official misconduct for engaging in sexual intercourse with a  
7 female AIC.
- 8 • 2012 – Jeremy Joseph Veelle, Physical Plant employee, was charged with  
9 official misconduct for sexually abusing a female AIC.
- 10 • 2012 – Shawn Jacob Riley, a civilian employee at CCCF, arrested and  
11 charged with official misconduct and custodial sexual misconduct for  
12 sexual acts against a female AIC.
- 13 • 2016 – CO Edgar Mickels was arrested and charged with first degree sexual  
14 misconduct and three counts of custodial sexual misconduct for engaging in  
15 sexual contact with at least one female AIC.
- 16 • 2017 – CO Brian Joseph Balzer was convicted of first degree custodial  
17 sexual misconduct for his conduct with a female AIC at CCCF. Mr. Balzer's  
18 victim alleges there were other victims.
- 19 • 2017 – Dr. Robert W. Snider was sued by three female AICs alleging they  
20 were sexually abused by Dr. Snider during unsupervised examinations while incarcerated at  
21 CCCF. The case was dismissed on summary judgment based on a statute of limitations defense.z
- 22 • 2019 – Tony Klein, ODOC nurse, was accused by at least 12 female AICs  
23
- 24

1 who filed federal lawsuits against ODOC and several medical staff members of a long pattern of  
2 sexual grooming, assault, battery and retaliation for abuses committed by a male nurse.

- 3 • 2019 – Douglas Cloutier, ODOC kitchen employee, at least four female  
4 AICs filed complaints for sexual assault and battery against Mr. Cloutier.
- 5 • 2021 – Richard Stephen Alberts, Jr., a former CO at CCCF and a defendant in this complaint,  
6 was convicted on federal charges of smuggling drugs and contraband into CCCF. Alberts also  
7 pleaded guilty and was convicted in Washington County Circuit Court of first degree custodial  
8 misconduct for raping a female AIC in CCCF.

9  
10 18.

11 Oregon Revised Statutes 423.075(5)(d) states the Director of the Oregon Department of  
12 Corrections shall provide for the safety of all prisoners in the custody of the department.

13 19.

14 On August 20, 2012, the Department of Justice issued the final rule adopting national  
15 standards to prevent, detect, and respond to prison rape, as required by the Prison Rape  
16 Elimination Act of 2003 (PREA).

17 20.

18 ODOC has a zero-tolerance policy for sexual abuse. The Prison Rape Elimination Act of  
19 2003 is a federal law that seeks to eliminate sexual assaults and sexual misconduct. This law  
20 applies to all federal and state prisons. The Bureau of Justice Statistics carries out, annually, a  
21 comprehensive statistical review and analysis of the incidence and effects of prison rape. The  
22 major provisions of the standards are: general prevention planning, supervision and monitoring,  
23 cross-gender searches and viewing, training and education, screening, reporting, responsiveness  
24 planning, investigations, discipline, medical and mental health, grievances, and audits. DOC



1 continues its efforts to maintain safety for all AICs and others inside the facilities keeping PREA  
2 as a top priority. ODOC, in AIC publications, handbooks, posters, fliers, and other types of  
3 communications with AICs, has created an expectation that ODOC will do everything within its  
4 powers to protect AICs from staff assault and that ODOC expects AICs to be respected by staff at  
5 all times.

6 21.

7 The Prison Rape Elimination Act (PREA) became federal law in 2003. The Oregon  
8 Department of Corrections adopted the mandates of PREA in Rule 40.1.13 and was modified in  
9 September 2018.

10 22.

11 PREA's purpose is to provide for the analysis of the incidence and effects of prison rape  
12 in federal, state and local institutions, and to provide information, resources, recommendations  
13 and funding to protect individuals from prison rape. PREA seeks to establish a zero-tolerance  
14 policy regarding rape and sexual abuse inside correctional facilities. PREA also mandated the  
15 publication of standards to ensure compliance and to improve prevention, detection and response  
16 strategies in addressing sexual abuse and assault.

17 23.

18 The requirements of ODOC Policy 40.1.13 and PREA include prevention, planning,  
19 investigation, prosecution, and provide counseling and treatment to victims. Oregon identifies  
20 itself as being committed to a zero-tolerance standard for sex abuse and sex harassment.

21 24.

22 The Agency PREA Coordinator is responsible for the development, implementation and  
23 oversight of the department's compliance with the PREA standards in all department facilities.  
24

1 Policy 40.1.13 II.A. In order for this coordination to occur the Operations Division, which  
 2 Defendant Gower is in charge of, has to authorize the recommended implementation  
 3 recommendations. Without the adoption, cooperation on approval of the Operations Division, the  
 4 Agency PREA Coordinator lacks authority to enact change.

5 25.

6 The PREA compliance manager is a management staff person designated by the  
 7 institution functional unit manager, with sufficient time and authority to coordinate the facilities'  
 8 efforts to comply with the federal PREA standards. (Policy 40.1.13 II.F.) However, absent the  
 9 approval and direction of the Superintendent and Assistant Superintendent of Security, the PREA  
 10 Compliance Manager lacks operational authority to make any changes or order anything to occur  
 11 differently at an institution.

12 26.

13 Sexual abuse of an AIC by a staff member includes any of the following acts, with or  
 14 without consent of the inmate:

- 15 1) Contact between the mouth and any body part where the staff member has the intent to abuse,  
 16 arouse or gratify sexual desire;
- 17 2) Penetration of the genital opening by hand, finger, object or other  
 18 instrument, that is unrelated to official duties or where the staff member  
 19 has the intent to abuse, arouse or gratify sexual desire;
- 20 3) Any other intentional contact, either directly or through the clothing, of  
 21 or with the genitalia, anus, groin, breast, inner thigh or the buttocks that  
 22 is unrelated to the official duties or where the staff member has the intent to abuse, arouse or  
 23 gratify sexual desire;

1 4) Any attempt, threat, or request by a staff member to engage in such activities.

2 5) Voyeurism by a staff member, contractor or volunteer. (Policy 40.1.13.II.G)

3 27.

4 The sexual abuse liaison is a management staff person designated by the institution  
5 functional unit manager to coordinate response reporting and monitoring of AIC abuse within the  
6 institution. The sexual abuse liaison shall be assigned as the Sexual Abuse Response Team  
7 (SART) leader.

8 28.

9 The SART is a team of institution staff consisting of a Behavioral Health Services (BHS)  
10 staff member, a Medical Services staff member and the sexual abuse liaison who are designated  
11 by the functional unit manager to respond to all allegations of AIC sexual abuse or sexual  
12 coercion.

13 29.

14 All staff are covered by the mandates of PREA and Policy 40 including all ODOC  
15 employees, OCE employees, contract service providers and volunteers.

16 30.

17 ODOC Policy 40 mandates that all staff “must be able to recognize the signs of sexual  
18 abuse and sexual harassment and understand their responsibility in the detection, prevention,  
19 response and reporting of an alleged sexual abuse or sexual harassment.”

20 31.

21 Each facility is required to conduct and document unannounced rounds on all shifts to  
22 deter staff sexual abuse and sexual harassment. Staff is prohibited from alerting other staff  
23 members that the supervisory rounds are occurring.  
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32.

ODOC shall ensure that each facility it operates develops and documents a staffing plan that provides for adequate levels of staffing to protect AICs against sexual abuse.

33.

It is the AIC's right is to be free from sexual abuse and retaliation. AIC's can exercise this right by reporting sexual abuse and obtaining mental health services if victimized.

34.

Policy 40 mandates access to services, including reporting, for AIC victims of any and all sexual abuse or sexual harassment.

35.

Policy 40 mandates all staff to report "immediately any knowledge, suspicion or information regarding sexual abuse, sexual harassment, retaliation by AIC or staff for reporting or staff neglect or violation of responsibility that may have contributed to such incidents.

36.

Policy 40 sets forth the procedures to be followed when a complaint of sexual abuse or harassment is received. The PREA Compliance Manager shall be responsible for monitoring all AICs and staff to protect from retaliation or harassment by other staff or AICs. Typically, CCCF requests the Oregon State Police to conduct criminal investigations into allegations of sexual abuse inside the prison.

37.

ODOC states there is to be no long-term forfeiture of services and programs for victims of sexual abuse and that the safety of the victim is paramount. AICs will be housed in the least

1 restrictive housing, will have timely unimpeded access to emergency medical treatment,  
 2 necessary post event treatment including coordination with community hospitals, medical  
 3 services, and referral to Behavior Health Services and communication with a designated  
 4 sexual abuse liaison regarding further information required.

5 38.

6 Mental health services are required to be provided for victims of sexual abuse including  
 7 timely, unimpeded access to appropriate mental health evaluation services without financial cost,  
 8 comprehensive information on the limits of confidentiality and duty to report, completion of a  
 9 mental health evaluation to include suicide risk screening, notification of the Officer in Charge  
 10 and Medical Services regarding recommended actions, and follow up mental health services.

#### 11 RESPONSE TO PRIOR PREA INVESTIGATIONS

12 39.

13 Following the sexual abuse investigations many of the women victims, including plaintiff,  
 14 were placed in solitary confinement, and were limited in visits with children and family. The  
 15 superintendent for CCCF initiated an internal review which found that the facility had inadequate  
 16 security patrols, rooms without windows or adequate surveillance, an overall shortage of  
 17 surveillance cameras, and too many employees with access to limited private areas. The  
 18 superintendent adopted a “Rule of Three” which prohibits entry into some parts of the prison  
 19 unless three people—a mix of staff and AICs—are present.

20 40.

21 While neither PREA nor Policy 40 create a private right of action, national standards as  
 22 implemented by the rule create duties of staff. Rights held by inmates are another protected  
 23 “condition of confinement” protected under the Eighth Amendment to the United States  
 24

1 Constitution. PREA and the state policy creates notice to employees of expected performance  
2 and parameters of behavior which have the impact of law.

3 41.

4 Lacy Girard

5 Plaintiff was born in 1990. She got pregnant at 16. Her daughter is with paternal  
6 grandparents until she is released. When she was 18 years old, she had surgery and was treated  
7 for cancer. She lost the bone marrow in her femur, which was replaced with a rod. She became  
8 addicted to pain pills, and when her prescriptions expired, turned to heroin. She was convicted  
9 for identity theft for checks she wrote in her mother's husband's name and was sent to prison in  
10 2012 for 26 months at Coffee Creek. She got out in 2013. Prior to her release, she was sexually  
11 assaulted by Caesar Leone, a kitchen coordinator for the prison. She reported the assault, saw an  
12 attorney, but did not follow through because she violated the terms of her release by altering her  
13 prescription, knew she would be going back to prison, and was scared for people to know that she  
14 had turned someone in at Coffee Creek and she feared retaliation. This was in 2014. She got  
15 pregnant again and had a baby December 8, 2015. Then she relapsed and went back to prison at  
16 the end of December.

17 42.

18 Plaintiff was on a downward departure. She ran from the courtroom, jumped off the roof,  
19 and was charged with escape II. She was sentenced on the downwards departure and the escape  
20 getting a total of 52 months. She relapsed and was returned to ODOC custody at Coffee Creek  
21 with PTSD and addiction issues in 2015.

22 43.

1 Plaintiff was a physical plant painter at the prison, allowed to roam premises without staff.  
2 In October of 2016, Plaintiff's painting partner and best friend, Bonnie Doan, told Plaintiff the  
3 corrections officer Jason Battin inquired about Plaintiff, saying she was still hot. He was working  
4 on D unit and was training somebody. Plaintiff was painting in the classroom at the time. They  
5 wanted a doorstep to keep classroom door open to ventilate fumes. Plaintiff asked Battin if he had  
6 the doorstep. He said it's back here. He asked the guy he was training to stay at the podium. He  
7 entered the janitor's closet and went all the way back in the closet and called her to come back  
8 there. He pointed to a moisture mark on the ceiling. Painters weren't allowed to go in janitor  
9 closets. Battin asked, do you think if I put in a work order you could do this closet. She said you  
10 know we aren't supposed to be back here, so I don't think that is why your want me back here, so  
11 can I get that doorstep? He pushed her against a wall and began kissing her neck. She put her  
12 hands up and felt shaky. He unbuttoned her pants, put his hands down her pants, and put his  
13 fingers in her vagina.

14 Plaintiff told him to stop, you'll get us in trouble, and pushed him away. He was kissing  
15 her on the mouth and biting her neck. He said OK, but you'll come back. She never came back.  
16 She ran out of the closet and saw Bonnie, Bonnie looked at her and asked what was wrong, that  
17 Plaintiff looked white as a ghost. Bonnie's wife, Linda Adams, saw something. Linda was  
18 threatened by Battin that he would put her in the hole if she said anything. Linda Adams, now  
19 Doan, said nothing.

20 44.

21 Thereafter, Battin got possessive, as if they were in a relationship. Plaintiff found a way  
22 out of it when Bonnie told her that Battin was having sex with another inmate: Plaintiff yelled at  
23 Battin and told him to leave her alone. He left her alone for a period of time.  
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45.

Plaintiff went to segregation in September of 2017. She had a cellmate named Jasmine Barnett, who reported it. Battin came by and didn't even care that Jasmine was present and told Plaintiff, Let me see your tits. Plaintiff said, No. He came back again and said, Show me your fucking tits. Plaintiff said No, I'm not going to do that. He left and then came back. Usually, officers would shift areas, but Battin wouldn't let the other officer patrol Plaintiff's side. Defendant Battin came back, stood at the door, and said, Let me see your fucking tits. Plaintiff felt she had to do it or he wouldn't leave her alone. So she did it, and felt degraded. He left.

46.

Jasmine was removed from segregation, and Battin came back that night. He said, Let me see your pussy. Plaintiff said No, I'm bleeding and hairy. He insisted, and stood there and she showed him and he made her put her fingers in her vagina. Then he walked away. Plaintiff cried herself to sleep that night.

47.

Plaintiff was paroling in 20 days because she won her appeal of the escape conviction and got 16 months off her sentence. Two days later, September 14, 2017, she was informed that Billy Davis, her boyfriend at the time, died in a motorcycle in an accident on his way to be with Plaintiff upon her release. Plaintiff was emotionally distraught.

48.

With Leone, it was as if they were friends, and Plaintiff thought she may have led him on by being friendly. With Battin, he was preying upon her. She was messed up and started doing heroin more than she had before, and was thankful when she was caught and sent back to prison.

49.



1 Plaintiff was back at Coffee Creek in March of 2019. She was there about 30 days and  
2 she was sent back in segregation when she was caught up in a huge investigation of correction  
3 officers providing contraband to inmates. Two girls were getting drugs from an officer, and  
4 Plaintiff got some of it from the girls, and her name came up. Plaintiff got six months in  
5 segregation for getting high. The girls got a lot longer because they got the drugs from an officer.

6 50.

7 Before being sent to segregation Plaintiff was an orderly. Battin was working J unit and  
8 instantly Plaintiff's heart dropped. He requested for her to go to J unit. He called Plaintiff to the  
9 podium and said, God, you're still so fucking hot. He pointed out newly installed cameras and  
10 said, Its hard to do anything now. He said he was working C-D patrol now and that she should  
11 probably move to C unit. She was hoping to go to G unit but said OK.

12 51.

13 Plaintiff was put in G unit. Then one day she was told she was being moved to C unit.  
14 She didn't want to go and told the captain, she would rather be sent to the hole than be forced to  
15 go to C unit. The captain said it was a direct order. Plaintiff knew she was supposed to follow  
16 orders, but refused. They handcuffed her and put her in the hole. One of the old captains with  
17 whom she has a good rapport, Yanez, asked what happened. Plaintiff was crying and said she  
18 couldn't go to C unit. Yanez said, Why not? Plaintiff was fearful of retribution if she informed  
19 on a correctional officer and felt she had to make up a lie and said she had a conflict with  
20 somebody her brother told on and that she afraid. Yanez said OK, but that doesn't mean you can  
21 be disrespectful. But they let her out of segregation and put her back in G unit.

22 She was in segregation for about six months for the drug activity from June to December  
23 and Battin came back there in August 2019 and did the same thing. He walked by, this time in  
24

1 the morning, exposed his circumcised penis, and asked her to show him her boobs. She said no,  
2 people are going to hear you. He said I don't care. He made her show her boobs and her vagina.  
3 He didn't make her put her fingers in this time. He was obvious about it. Others know.

4  
52.

5 Plaintiff was questioned about it by Captain Wilson, probably in March of 2020. Her  
6 friend Kameron Baszler was her cellmate and similar abuse happened to her with a nurse named  
7 Tony Klein. Plaintiff told Kameron about what happened. Kameron said you need to say  
8 something. Plaintiff said she couldn't. Plaintiff said because Battin and his wife are well liked.  
9 Half of Plaintiff's friends have Battin's wife as a counselor and they all love her.

10  
53.

11 Kameron got retaliated against and complained to Captain Wilson and told him what  
12 happened to Plaintiff.

13  
54.

14 Battin and other correctional officers are being federally investigated for being involved in  
15 providing drugs to other inmates.

16  
55.

17 Plaintiff saw Battin escorted off the premises. Wilson called Kameron back in and said its  
18 your cellie, isn't it. Wilson called Plaintiff down. She asked him how he knew it was her that he  
19 needed to talk to. Wilson said he did some digging and that Plaintiff had made a statement in  
20 2017, and didn't she remember? She didn't remember, as that was also the time when her  
21 boyfriend died. He said she wouldn't talk then. She told him that she feared retaliation. Wilson  
22 told her he would protect her. Then he moved Battin's wife to the other side of the institution. He  
23 moved Plaintiff to a cellmate she felt comfortable with. He allowed Bonnie to be present when  
24

1 she talked to the Oregon State Police in July or August. There was a four month delay because of  
2 the corona virus.

3  
4 56.

5 Plaintiff filed a grievance to give notice. They accepted the grievance in August.

6 CLAIMS FOR RELIEF

7 FIRST CLAIM FOR RELIEF

8 Cruel and Unusual Punishment – Sexual Abuse

9 42 U.S.C § 1983 – Violation of Eighth Amendment

10 57.

11 Sexual abuse of an AIC is deeply offensive to human dignity and is cruel and unusual  
12 punishment under the Eighth Amendment. AICs have an Eighth Amendment right to be free from  
13 sexual abuse. Sexual abuse of an AIC also constitutes excessive force and violates the Due  
14 Process Clause of the Fourteenth Amendment.

15 58.

16 Plaintiff is entitled to be held in safe and humane conditions of confinement throughout  
17 her incarceration. Plaintiff is entitled to be free from unwanted and unwarranted sexual touching  
18 and abuse. She is entitled to her own personal bodily integrity pursuant to the parameters of the  
19 Eighth and Fourteenth Amendments to the United States Constitution. Plaintiff is also entitled to  
20 to be safe and secure from undue and excessive force while in custody.

21 59.

22 The acts and omissions of defendant Battin violated plaintiff's protected rights and were  
23 an excessive intrusion onto her person without just cause and amounted to deliberate indifference  
24 to plaintiff's protected rights and her own personal safety. Defendants violated the requirements

1 of the Eighth and Fourteenth Amendment rights held by plaintiff through the use of intentional  
 2 and abusive sexual assault and subjecting her to unsafe and inhumane conditions of confinement.  
 3 The specific acts of defendant Battin individually and alleged are more particularly set forth  
 4 below:

5 1) Defendant Battin attempted to physically restrain, sexually touch or cause serious  
 6 bodily harm and significant mental distress to plaintiff. The actions of defendant Battin against  
 7 plaintiff occurred in 2017, 2018 and 2019.

8 2) The actions of defendant Battin violated at least one of the enumerated definitions of  
 9 sexual abuse of an AIC by a staff member as set forth in ODOC Policy 40.1.13.II.G.

10 3) The actions of defendant Battin were in violation of existing correctional standards, the  
 11 United States Constitution, and state and federal laws and rules.

12 4) Defendant Battin's actions were not only criminal but also placed plaintiff, as well  
 13 as other AICs and correctional staff, in harm's way. Defendant Battin sexually abused plaintiff in  
 14 his attempt to engage in numerous prohibited sexual contacts.

15 60.

16 Defendants Peters, Belleque, Gower, and Perrson knew of various technology  
 17 security solutions that would aid in the prevention and deterrence of sexual assault in prisons.  
 18 Technology exists to allow correctional facilities to track AIC and staff movement around the  
 19 clock. The system alerts the institution if a staff member were alone with an AIC within a  
 20 particular area of the institution. This system would have easily monitored defendant Battin's  
 21 movements within CCCF.

22 61.

23 As a result of the violations of the Constitutional standards set forth herein, plaintiff  
 24

1 suffered physical assaults to her person, severe emotional trauma from the ongoing assaults and  
 2 threats, and a significant deterioration in her mental state causing her to become severely  
 3 depressed. She was isolated, helpless and disregarded. As a result of the violations of the  
 4 Constitutional standards set forth herein, plaintiff has suffered from forms of stress, depression,  
 5 anxiety and an exacerbation of her underlying problems. The acts and omission of defendants,  
 6 taken under color of law, constituted deliberate indifference and violated plaintiff's right under  
 7 the Eighth Amendment to the United States Constitution.

8 632.

9 As a result of the violations of the constitutional standards set forth herein, plaintiff  
 10 continues to suffer from anxiety, stress, anger, hopelessness, depression and ongoing battles with  
 11 stress.

12 63.

13 As a result of the violations of the United States Constitution, plaintiff seeks economic  
 14 and noneconomic damages in a sum to be more fully determined at trial but no less than  
 15 \$1,000,000. Plaintiff seeks punitive damages against defendants.

16 64.

17 All defendants' conduct was well defined by law and each defendant knew or reasonably  
 18 should have known that their conduct both below the standard prescribed by law herein but also  
 19 was illegal.

20 65.

21 As a result of the violations of the United States Constitution, plaintiff seeks economic  
 22 and noneconomic damages in a sum to be more fully determined at trial but no less than  
 23 \$1,000,000. Plaintiff seeks punitive damages against defendants.

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66.

The acts and omission of defendants, taken under color of law, constituted deliberate indifference and violated plaintiff's right under the Eighth Amendment to the United States Constitution.

67.

Plaintiff is entitled to an award of attorney fees, expert fees and costs pursuant to 42 U.S.C. 1988.

## SECOND CLAIM FOR RELIEF

### Deprivation of Federal Civil Right

#### Failure to Protect

(42 U.S.C §§ 1983, 1985)

Plaintiff further alleges:

68.

Plaintiff, as a prisoner confined to a correctional facility, is entitled to be provided the essential aspects of a safe, sanitary and humane confinement including protection from harms and threats to her safety and security under the laws of the State of Oregon and the Eighth Amendment to the United States Constitution.

69.

Plaintiff is entitled to the full protection of the laws including the Prison Litigation Reform Act and the Prison Rape Elimination Act which requires ODOC and defendants to comply with the laws in providing protection from assault including rape, providing protection to vulnerable AICs, and to comply with all aspects of intervening and providing a safe environment to plaintiff.

70.

1 Defendants violated the constitutional and statutory rights held by plaintiff in the  
2 following ways:

- 3 1) Failure to timely investigate defendant Battin's actions;
- 4 2) Failure to timely investigate defendant the actions of defendant Alberts and numerous  
5 other lawbreaking correctional officers.
- 6 3) Failure to provide adequate supervision and training for staff;
- 7 4) Failure to provide adequate safeguards and protections for AICs from Battin and other  
8 lawbreaking correctional officers.
- 9 5) Failure to respond to obvious signs that defendant Battin was grooming plaintiff, and  
10 displayed sexual predator patterns which were known to many staff members  
11 including security staff and management at CCCF;
- 12 6) Failure to respond to obvious signs that defendant Battin was attempting to sexually  
13 abuse plaintiff, and displayed sexual predator patterns which were known to many  
14 staff members including security staff and management at CCCF;
- 15 7) Failure to provide legally mandated counseling as required by provisions of the PREA  
16 for the benefit and protection of plaintiff;
- 17 8) Lack of concern for security and premises defects at CCCF. Defendant Battin had  
18 access to various secluded areas of CCCF that were known as areas of illegal activity  
19 and were not equipped with adequate and properly placed monitoring systems;
- 20 9) Knowledge of defendant Battin's actions and their failure to take immediate action to  
21 stop defendant Battin's actions;
- 22 10) Failure to protect plaintiff from sexual harassment and intimidation from correctional  
23 officers;
- 24

1 11) Failure to preserve evidence of defendant Battin's actions, by failing to preserve video  
2 surveillance of hallways, closets and areas of segregated confinement.

3 12) Punishment of plaintiff for actions of corrupt correctional officers;

4 13) Failure to ensure that plaintiff's conditions of confinement complied with  
5 constitutional standards.

6 71.

7 As a result of the behaviors of the defendants herein plaintiff suffered repeated sexual  
8 assault, was placed in constant fear for her safety, could not meet with advocates, was denied  
9 abuse counseling, could not safely access medical care, could not safely access legal counsel, was  
10 housed in inhumane conditions, suffered repeated verbal abuse and her underlying anxiety and  
11 medical and psychological conditions were exacerbated.

12 72.

13 As a result of the violations of the United States Constitution, plaintiff seeks economic  
14 and noneconomic damages in a sum to be more fully determined at trial but no less than  
15 \$1,000,000. Plaintiff seeks punitive damages against defendants.

16 73.

17 The acts and omission of defendants, taken under color of law, constituted deliberate  
18 indifference and violated plaintiff's rights under the Eighth Amendment to the United States  
19 Constitution.

20 THIRD CLAIM FOR RELIEF

21 Deprivation of Federal Civil Rights

22 Failure to Supervise

23 (42 U.S.C §§ 1983, 1985)  
24



1 Plaintiff further alleges:

2 74.

3 The constitutional deprivations suffered by plaintiff are the proximate and direct cause of  
 4 an indifferent, and willfully ignorant supervisory practice by the named defendants. The  
 5 supervisors have a constitutional duty to protect prisoners and to provide them with safe and  
 6 humane conditions of confinement including the right to be free from sexual abuse and assault by  
 7 staff. This duty imposed on supervisory staff includes the obligation under the law to fully  
 8 investigate claims of sexual misconduct by staff against prisoners, the mandatory duty to report  
 9 and address claims of sexual assault on prisoners, the duty to maintain a good and constant  
 10 supervision of male staff supervising female prisoners, and the duty to ensure that AICs are held  
 11 in constitutionally adequate conditions. The duty is enhanced when the prisoner population is  
 12 especially vulnerable particularly if they are smaller, physically weaker, more vulnerable because  
 13 of past abuse and their susceptibility to be easily abused.

14 75.

15 The constitutional deprivations committed by the supervisory staff were long-standing and  
 16 in the face of several years of obvious and notable signs about the predatory habits of defendant  
 17 Battin and other correctional officers such as their ability to set their own schedules, roam the  
 18 facility at will, pull AICs from their housing units during off hours, have unchaperoned access to  
 19 women, exhibiting sexualized behaviors, their failure to follow recommended guidelines for  
 20 interactions with AICs, their lack of accountability, numerous rumors and innuendo, and a  
 21 complete lack of investigation and follow up.

22 76.

23 The supervisory staff failed in the following particulars:  
 24

9) Conspired by silence to protect other defendants.

77.

Furthermore, the supervisory staff failed plaintiff by failing to institute national standards for prison security by failing to inspect staff members coming and going from prison, failing to stop the introduction of contraband into the prison by staff, failing to follow up on location and work production by subordinate staff, failing to demand accountability by subordinate staff, and failing to have safe and adequate investigative procedures for complaints made by prisoners toward staff, and conspiring by silence to protect other defendants.

78.

As a result of the unconstitutional practice by supervisors which was promoted, allowed or facilitated within CCCF, female informants, witnesses or victims of sexual abuse were ignored, or retaliated against for filing complaints of sexual abuse.

#### FOURTH CLAIM FOR RELIEF

##### Deprivation of Federal Civil Right

##### Failure to Protect, Cruel and Unusual Punishment,

##### CCCF's liability for the actions of its employees

##### (42 U.S.C § 1983 – Violation of Eighth Amendment)

Plaintiff further alleges:

79.

Defendants had knowledge of, ignored, acquiesced and facilitated the unconstitutional action of subordinate officials and correctional officers. The specific liabilities are as follows:

- 1) Failure to timely investigate defendant Battin's actions;
- 2) Failure to timely investigate the actions of other lawbreaking correctional officers.
- 3) Failure to provide adequate supervision and training for staff;
- 4) Failure to provide adequate safeguards and protections for AICs from defendant Battin;

- 5) Failure to respond to obvious signs that defendant Battin was attempting to sexually abuse plaintiff, and displayed sexual predator patterns which were known to many staff members including security staff and management at CCCF;
- 6) Failure to provide legally mandated counseling as required by the provisions of the PREA for the benefit and protection of plaintiff;
- 7) Lack of concern for security and premises defects at CCCF. Defendant Battin had access to various secluded areas of CCCF that were known as areas of illegal activity and were not equipped with adequate and properly placed monitoring systems;
- 8) Knowledge of defendant Battin's actions and their failure to take immediate action to stop defendant Battin's actions;
- 9) Failure to protect plaintiff from sexual harassment and intimidation from correctional officers;
- 10) Failure to preserve evidence of defendant Battin's actions, by failing to preserve video surveillance of C-Unit, D-Unit and the staff bathroom;
- 11) Failure to comply with the mandates set forth in PREA, including but not limited to meeting with plaintiff 30, 60, and 90 days after the incident.
- 12) Failure to comply with the mandates set forth in PREA
- 13) Conspiracy of silence to protect other defendants

80.

The deprivations committed by the supervisory staff was longstanding and in the face of several years of obvious and notable signs about the predatory habits of defendant Battin and other lawbreaking correctional officers , to set their own schedule, roam the facility at will, pull AICs from their housing units during off hours, have access to women without chaperones,

1 exhibition of sexualized behaviors, failure to follow recommended guidelines for interactions  
2 with prisoners, lack of accountability, numerous rumors and innuendos, and a lack of  
3 investigation and followup.

4 81.

5 Furthermore, the supervisory staff failed plaintiff by failing to institute national standards  
6 for prison security by failing to inspect staff members coming and going from prison, failing to  
7 stop the introduction of contraband into the prison by staff, failing to follow up on location and  
8 work production by subordinate staff, failing to demand accountability by subordinate staff, and  
9 failing to have safe and adequate investigative procedures for complaints made by prisoners

10 82.

11 As a result of the practices by defendant supervisors—which were promoted, allowed, or  
12 facilitated within CCCF—female informants, witnesses or victims of sexual abuse were ignored,  
13 punished or retaliated against for filing complaints of sexual abuse. As a result of the behaviors of  
14 the defendants herein, plaintiff suffered repeated sexual assault, was placed in constant fear for  
15 her safety, feared meeting with advocates, was denied abuse counseling, could not safely access  
16 medical care, was held in unlawful conditions, and her underlying anxiety and PTSD were  
17 severely exacerbated.

18 83.

19 Plaintiff, as a prisoner confined to a correctional facility, is entitled to be provided the  
20 essential aspects of a safe, sanitary and humane confinement including protection from harms and  
21 threats to her safety and security under the laws of the State of Oregon and the Eighth  
22 Amendment to the United States Constitution.

23 84.

1 Plaintiff is entitled to the full protection of the laws including the Prison Litigation  
2 Reform Act and the Prison Rape Elimination Act which requires ODOC and defendants to comply  
3 with the laws in providing protection from assault including rape, providing protection to  
4 vulnerable inmates, and to comply with all aspects of intervening and providing a safe  
5 environment to plaintiff.

6 85.

7 Defendants violated the constitutional and statutory rights held by plaintiff in failing to  
8 timely investigate defendant Battin's actions and in failing to guarantee that all inmates were in a  
9 safe and secure environment when they worked and where they were housed and not face sexual  
10 victimization.

11 86.

12 As a result of the behaviors of the defendants herein, plaintiff suffered repeated  
13 sexual assault, was placed in constant fear for her safety, and her underlying anxiety and PTSD  
14 were severely exacerbated.

15 87.

16 As a result of the violations of the United States Constitution, plaintiff seeks economic  
17 and noneconomic damages in a sum to be more fully determined at trial but no less than  
18 \$1,000,000. Plaintiff seeks punitive damages against defendants.

19 88.

20 The acts and omission of defendants, taken under color of law, constituted deliberate  
21 indifference and violated plaintiff's right under the Eighth Amendment to the United States  
22 Constitution.

23 89.

1 As a result of the negligence and violations of the standard of care by the defendants and  
2 the State of Oregon, plaintiff was sexually battered, verbally abused, harassed and suffered  
3 significant emotional damages to her non-economic loss of no less than \$1,000,000.

4 FIFTH CLAIM FOR RELIEF – NEGLIGENCE

5 Plaintiff further alleges:

6 90.

7 The deprivations suffered by plaintiff are the proximate and direct cause of her physical  
8 and psychological harm because of indifferent and willfully ignorant supervisory practice by  
9 defendants.

10 91.

11 Defendants have a constitutional and statutory duty to protect prisoners and to provide  
12 them with safe and humane conditions of confinement including the right to be free from sexual  
13 harassment, abuse and assault by staff.

14 92.

15 Defendants were negligent in the following particulars:

- 16 1. Failure to implement adequate inmate and staff monitoring after repeated sexual  
17 violations at CCCF.  
18 2. Failure to provide adequate safeguards to keep inmates from being alone with  
19 staff.  
20 3. Failure to note and respond to evidence of abuse.  
21 4. Failure to investigate and purposeful disregard of complaints  
22 5. Toleration and encouragement of retaliation against inmates who voiced concerns  
23 about sexual behavior of staff.  
24

- 1 6. Failure to stop or discipline defendant Battin for his obvious and continual
- 2 grooming behaviors, inappropriate and flirtatious comments and sexual conduct
- 3 towards and contact with numerous female inmates on a daily basis.
- 4 7. Willfully ignoring violations of restrictions on contact and behavior between staff
- 5 and inmates.

6 93.

7 The failure of the individual defendants and the State of Oregon to comply with existing

8 standards of behavior and conduct were the direct cause of the sexual battery suffered by

9 Plaintiff. The failure to adhere to known expected standards was a deviation from the existing

10 standard of care and it was foreseeable that Battin would perpetrate sexual assault and harassment

11 of female inmates including Plaintiff.

12 94.

13 As a result of the negligence and violations of the standard of care by the defendants and

14 the State of Oregon, plaintiff was sexually battered, sexually harassed and suffered significant

15 emotional damages to her loss of \$1,000,000. She should have long term counseling because she

16 was damaged by defendants' actions and omissions to her economic damage of \$150,000.

17 PRAYER FOR RELIEF

18 WHEREFORE, plaintiff respectfully prays that this Court will enter a judgment in her

19 favor, and against defendants, as follows:

20 A. Finding that defendants violated her protected constitutional rights and statutory;

21 B. Finding that as a result of the constitutional and statutory violations alleged herein

22 plaintiff has sustained harm and damages in the amount of \$1,000,000;

23

24



1 C. Finding that the cause of the constitutional violations is intentional or so grossly and  
2 deliberately indifferent to justify the award of punitive damages against each named defendant in  
3 a sum no less than \$100,000.00 each;

4 D. Finding that Plaintiff will require further medical treatment and counseling in the  
5 amount no less than \$150,000.00;

6 E. Findings that plaintiff was subject to sexual assault as a result of the actions of  
7 individuals in the employment of the State of Oregon;

8 F. For an award of economic and noneconomic damages in an amount to be  
9 proven at trial, but not less than \$1,000,000;

10 G. For an award of punitive damages in an amount to be proven at trial

11 H. For plaintiff's reasonable attorney fees, costs, and disbursements; and

12 I. For such other relief as the law permits and justice requires.

13 DATED this 30th day of July, 2021.

14 Respectfully submitted,  
15

16 MOULE & FRANK

17  
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